

1 ROBERT A. MEYER (SBN 066847)
rmeyer@loeb.com
2 SAUL D. BRENNER (SBN 130909)
sbrenner@loeb.com
3 LOEB & LOEB LLP
10100 Santa Monica Boulevard, Suite 2200
4 Los Angeles, California 90067-4120
Telephone: 310-282-2000
5 Facsimile: 310-282-2200
6 Attorneys for Defendant
KPMG LLP
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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 ROBERT G. PERRIN and DIANE L.
12 PERRIN, Individually and on Behalf of
13 All Others Similarly Situated,

14 Plaintiffs,

15 v.

16 SOUTHWEST WATER COMPANY,
17 ANTON C. GARNIER, MARK A.
SWATEK, CHERYL L. CLARY,
18 PETER J. MOERBEEK and KPMG
LLP,

19 Defendants.
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Case No. 2:08-CV-07844 JHN (AGRx)

Assigned to Hon. Jacqueline H. Nguyen

Date: April 19, 2010

Time: 9:30 A.M.

Ctrm: 1600

**NOTICE OF MOTION AND
MOTION OF DEFENDANT KPMG
LLP TO DISMISS CLAIM II FOR
RELIEF IN PLAINTIFFS'
CONSOLIDATED AMENDED
CLASS ACTION COMPLAINT**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD

2 PLEASE TAKE NOTICE THAT on April 19, 2010 at 9:30 a.m., in
3 Courtroom 1600 of the above-entitled Court, located at 312 North Spring Street, Los
4 Angeles, CA 90012, before the Honorable Jacqueline H. Nguyen, United States
5 District Judge, defendant KPMG LLP ("KPMG") will move this Court for an order
6 dismissing Claim II alleged against KPMG in the Consolidated Amended Class
7 Action Complaint for Violations of the Federal Securities Laws ("CAC") of
8 plaintiffs herein.

9 This motion is made pursuant to Rules 8(a), 9(b), 12(b)(1), 12(b)(6) and 15(c)
10 of the Federal Rules of Civil Procedure, on the following grounds:

11 • The sole claim against KPMG violates the three-year statute of repose
12 applicable to claims brought under Section 11 of the Securities Act of 1933
13 ("Securities Act"), 15 U.S.C. § 77k(a)(4), which began to run on the date(s) that the
14 securities that the plaintiffs seeking to sue KPMG claim to have purchased were first
15 made available pursuant to a registration statement of defendant SouthWest Water
16 Company ("SWC"). The CAC does not "relate back" to the date of any prior
17 complaint in this case for purposes of determining the repose period applicable to
18 the alleged Section 11 claim against KPMG. *See* FED. R. CIV. P. 15(c)(2).

19 • Count II of the CAC fails to state a valid cause of action under Section
20 11(a)(4) of the Securities Act, because the CAC does not allege adequately or with
21 the necessary specificity, among other elements, that KPMG made materially false
22 statements in registration statements of SWC.

23 • The individual plaintiffs who seek to state a claim against KPMG have
24 failed to allege sufficient facts to establish standing. Among other standing issues,
25 none of the plaintiffs seeking to state a claim against KPMG has adequately alleged
26 that he purchased securities pursuant to or traceable to a specific registration
27 statement, and one of these plaintiffs has failed to certify that his alleged purchases
28 of shares were made pursuant to a registration statement of SWC.

1 This motion is made following the conference of counsel conducted pursuant
2 to Local Rule 7-3, which took place on January 5, 2010.

3 This motion is made and based upon this Notice of Motion; the Memorandum
4 of Points and Authorities filed concurrently herewith, and the authorities cited
5 therein; the Request for Judicial Notice and accompanying exhibits filed
6 concurrently herewith; the [Proposed] Order filed herewith; the pleadings and
7 papers on file herein; any further pleadings and materials that may be submitted in
8 support of, or otherwise in connection with, this motion; and such other or further
9 matters as the Court deems appropriate in connection with this motion.

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11 Dated: January 12, 2010

ROBERT A. MEYER
SAUL D. BRENNER
LOEB & LOEB LLP

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14 By: /s/ Robert A. Meyer
Robert A. Meyer
Attorneys for Defendant
15 KPMG LLP
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